

State's highest court questions how to compel state in McCleary school-funding ruling

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Attorney for plaintiffs, Thomas Ahearne, right, talks with Stephanie McCleary before the Washington State Supreme Court meets for the McCleary school-funding case in Olympia, Wash. Wednesday, Sept. 7, 2016. (Erika Schultz/The Seattle Times)

Two years after an unprecedented contempt ruling in the McCleary school-funding case, the state Supreme Court listened to arguments about whether to continue, lift or increase sanctions against the state.



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OLYMPIA — Attorneys appeared before the state Supreme Court on Wednesday in the landmark McCleary school-funding case, arguing over whether contempt sanctions against the state should be lifted — or whether harsher penalties are needed to spur action.

State attorney Alan Copsey compared the Legislature's work on fully funding basic education to a marathon, saying it had made adequate progress. The plaintiffs' lead attorney, Thomas Ahearne, compared what's happening to a merry-go-round ride that's going nowhere.

“You can pretend you are doing something impressive, but it just goes around in circles,” Ahearne said.

No decision is expected Wednesday, but the hearing provided a glimpse into what direction the court may be leaning. Observers looked for clues on whether justices would lift the contempt order and fines, or offer more punishment, like the plaintiffs and school-funding advocates have pushed for.

The justices seemed skeptical of both sides’ arguments on what to do regarding sanctions, asking both if the \$100,000-per-day fine imposed on the state last year had made any difference.

Copsey said it had compelled the Legislature to take action, while Ahearne said it hadn’t had any impact.

The hearing comes two years after an [unprecedented contempt ruling](#) against the state stemming from the court’s 2012 McCleary order. That order found that the state was violating its constitution by underfunding K-12 public schools.

Justices retained jurisdiction over the case, and have required regular reports on lawmakers’ progress. Last summer, the court ruled that the state hadn’t done enough toward putting together a full K-12 funding plan, and added the [\\$100,000-per-day fine](#) to its contempt ruling.

To fulfill the McCleary ruling, the biggest remaining task is determining how to untangle the way money from the state, and from local school-district property taxes, pay for basic education costs.

Local property taxes in many school districts are used to supplement what the state [provides for school-employee salaries](#), with districts saying what the state provides is inadequate. But those salaries are considered basic education costs — and thus the state’s responsibility.

In the 2016 legislative session, lawmakers and Gov. Jay Inslee passed on putting forward a detailed plan to tackle the problem.

Instead, lawmakers and the governor passed a bill to collect data on school salaries and levies, and create a task force to make recommendations for the 2017 legislative session.

A fix to the salary problem is projected to cost an estimated \$3.5 billion every two years.

Those contempt fines against the state amount to [more than \\$36 million](#). While that sounds like a lot of money, it’s considered a [relatively tiny sum for a state](#) that has a \$38.2 billion operating budget for the 2015-17 biennium.

Justices asked that the state answer specific questions at the hearing, including whether the task-force legislation passed this year should be considered a sufficient plan for how to get to full funding.

[The court also asked](#) how much more money the state needs to fully cover basic-education costs, as well as how much it will cost to provide market-rate salaries for school workers.

The McCleary decision stems from a lawsuit filed in 2007 by school districts, teacher unions and the McCleary family, who at the time had two children in public school in a rural school district near Port Townsend. The plaintiffs won in trial court, and again in 2012 before the state Supreme Court.

To address that decision, lawmakers and Inslee in recent years have poured more than \$2.3 billion dollars into McCleary-related education policies.

The state has boosted its spending on school-bus transportation, materials and operating costs, and moved to provide all-day kindergarten and reduce K-3 class sizes.

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